



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

February 17, 2004

Ms. Johanna H. Kubalak
Assistant District Attorney
Dallas County
133 North Industrial Boulevard, LB-19
Dallas, Texas 75207-4399

OR2004-1145

Dear Ms. Kubalak:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 196298.

The Dallas County District Attorney's Office (the "district attorney") received a request for "all records maintained by the [district attorney] relative to a complaint against [a named individual] for campaign finance violations filed by [another named individual]." You inform us that the requested information is the subject of a previous open records letter ruling. In the alternative, you claim that the requested information is excepted from disclosure under sections 552.101, 552.108, 552.111, and 552.130 of the Government Code. We have considered your arguments and have reviewed the information you submitted.¹

You inform us that the requested information is the subject of Open Records Letter No. 2003-8132 (2003). You explain that the prior ruling was the result of a request by the same requestor for "EVERYTHING in the litigation guide relative to [a specified complaint]" or "EVERY piece of paper in the file maintained by Any office in Dallas County used in regards to the [specified complaint]." (Emphasis in original.) Open Records Letter No. 2003-8132 (2003) concludes that because the prior request encompassed the prosecutor's entire case file, the district attorney may withhold the requested information under section 552.108(a)(4)(B) and (b)(3)(B) of the Government Code, with the exception of the basic

¹This letter ruling assumes that the submitted representative sample information is truly representative of the responsive information as a whole. This ruling neither reaches nor authorizes the district attorney to withhold any responsive information that is substantially different from the submitted information. See Gov't Code § 552.301(e)(1)(D); Open Records Decision Nos. 499 at 6 (1988), 497 at 4 (1988).

information that must be released under section 552.108(c). You assert that the present request is for precisely the same records that were at issue in the prior ruling and again encompasses the prosecutor's entire case file on the same specified matter. You state that there has been no change in the law, facts, or circumstances on which the prior ruling was based. Based on your representations and our review of the submitted documents, we conclude that the district attorney may continue to rely on Open Records Letter No. 2003-8132 (2003) with regard to the information that is the subject of the present request for information. As we are able to make this determination, we need not address your other arguments against disclosure. *See* Gov't Code § 552.301(a); Open Records Decision No. 673 at 6-7 (2001) (attorney general decision constitutes first type of previous determination under Gov't Code § 552.301(a) when (1) precisely same records or information previously were submitted under Gov't Code § 552.301(e)(1)(D); (2) same governmental body previously requested and received ruling; (3) prior ruling concluded that same records or information are or are not excepted from disclosure; and (4) law, facts, and circumstances on which prior ruling was based have not changed).

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

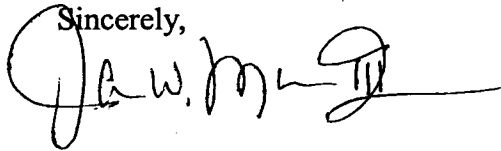
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read 'J.W. Morris, III', with a long horizontal flourish extending to the right.

James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/sdk

Ref: ID# 196298

Enc: Submitted documents

c: Ms. Sandra Crenshaw
2821 Fort Worth Avenue
Dallas, Texas 75211
(w/o enclosures)